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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

CHASOM BROWN, et al., individually and
on behalf of all similarly situated,,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**DECLARATION OF VIOLA TREBICKA
REGARDING GOOGLE'S
CORRECTION TO ITS MOTION TO
STRIKE**

Referral: Hon. Susan van Keulen, USMJ

1 I, Viola Trebicka, declare as follows:

2 1. I am a member of the bar of the state of California and a partner at Quinn Emanuel
3 Urquhart & Sullivan, LLP, attorneys for Google LLC (“Google”) in this action. I make this
4 declaration of my own personal, firsthand knowledge, and if called and sworn as a witness, I could
5 and would testify competently thereto.

6 2. On August 16, 2022, Google filed a Motion to Strike an exhibit that Plaintiffs’ filed
7 in support of their Administrative Motion requesting sanctions. “Motion to Strike I,” Dkt. 693. On
8 September 2, 2022, Google filed a Motion to Strike Plaintiffs’ references to a document that Google
9 had clawed back as privileged and a supporting declaration. “Motion to Strike II,” Dkt. 733; 733-1.
10 On October 20, 2022, the Court issued an Order regarding Motion to Strike II. Dkt. 777.

11 3. The Court’s October 20 Order states that the Jenkins Declaration filed with Google’s
12 Motion to Strike II (Dkt. 733-1) was contradicted by a prior representation made by Google with
13 respect to GOOG-BRWN-00857642, the document that Google had clawed back as privileged. *See*
14 Dkt. 777 at 3, 6.

15 4. Having reviewed the Court’s October 20 Order, Google has realized that a statement
16 in footnote 1 of its Motion to Strike I, Dkt 693, must be revised for clarification. The third sentence
17 of the footnote states, in part “GOOG-BRWN-00857642 originated from Bert Leung’s custodial
18 files—which were collected and reviewed in February 2022 pursuant to an agreement between the
19 parties in mid-February 2022 (see Dkt. 406).” This statement about GOOG-BRWN-00857642 is
20 correct, and was made to counter Plaintiffs’ claim that the documents at issue in its Administrative
21 Motion for Relief should have all been “produced . . . last year.” However, Google acknowledges
22 that when read in conjunction with the preceding sentences in footnote 1 of Dkt. 693, it incorrectly
23 suggests that GOOG-BRWN-00857642 was not withheld for privilege or produced pursuant to the
24 Court’s re-review orders.

25 5. Google has now filed a Corrected Version of Motion to Strike I to revise the language
26 in footnote 1 on page 2.

27 6. The incorrect suggestion was introduced to the brief during the editing process and
28 was not caught before filing. Google did not (and would not) intentionally seek to mislead the Court

1 with respect to the status of this document (or in any other way). Further, the original footnote and
2 the corrected footnote stand for the same point: that Google could not have produced GOOG-
3 BRWN-00857642 in 2021. The facts regarding when the document was produced, and that it had
4 originally been withheld as privileged and produced pursuant to the Court's re-review orders, are
5 known by both Plaintiffs and Google. In footnote 1, Google sought to counter Plaintiffs' statement
6 that all 15 documents included in Exhibit A to the Mao declaration: 1) had originally been withheld
7 as privileged; 2) were produced pursuant to the Court's re-review orders; and 3) should have been
8 produced last year. Google's corrected footnote conveys this same information accurately and
9 Google would have been in no worse position with respect to Motion to Strike I had it originally
10 submitted the corrected footnote instead of the original.

11 7. In addition, Google accurately presented this information in its Opposition to
12 Plaintiffs' Motion for Administrative Relief, which was filed on the same day as Google's Motion
13 to Strike I. Dkt. 692 at 2; n. 2. There, Google represented "But 13 of the 15 cited documents were
14 included on Google's privilege log as of October 27, 2021 (the 'Re-Review Documents'), and the
15 other two were either (i) produced in full long ago or (ii) collected and reviewed at a later date as
16 authorized by the Court." Dkt. 692 at 2. Google further noted "GOOG-CABR-04780837.R was
17 produced (with the comment Plaintiffs cite included in the text file provided to Plaintiffs) with the
18 Bates number GOOG-BRWN-00157001 on June 18, 2021, and GOOG-BRWN-00857642
19 originated from Bert Leung's files collected and reviewed in February 2022 pursuant to the
20 agreement of the parties in mid-February 2022 (Dkt. 406)." *Id.* at 2, n. 2.

21 8. As explained above, GOOG-BRWN-00857642 was initially withheld as privileged,
22 as correctly stated in the Jenkins Declaration in Support of Google's Motion to Strike II, Dkt. 733-
23 1. The Jenkins Declaration filed at Dkt. 733-1 is accurate and needs no corrections. Plaintiffs' own
24 prior briefing also confirms the basic facts that this document was initially withheld before being
25 produced with redactions pursuant to the Court's re-review orders, and then clawed back. Dkt. 745
26 at 2, 3.

1 I declare under penalty of perjury of the laws of the United States that the foregoing is true
2 and correct.

3 Executed in Los Angeles, California on November 10, 2022.

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5 By /s/ Viola Trebicka

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